IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06-07-2005

CORAM:

THE HON'BLE MR.JUSTICE P.SATHASIVAM
and
THE HON'BLE MR.JUSTICE AR.RAMALINGAM

W.P.No.24043 of 2001
….

1. The Union of India, rep. by
   Secretary to Government of India,
   Ministry of Railways,
   New Delhi.

2. The General Manager
   Integral Coach Factory
   Chennai 600 038.

3. The Member Secretary
   Railway Recruitment Board
   Ganga Building, Chennai 34. .. Petitioners

vs.

1. R.O. Rajendran
2. K. Thirugnanasambandam
3. G.E. Lenin
4. S. Suresh
5. M. Kondala Rao
6. P. Ramesh
7. V. Mohan Ram
8. T. Baskar
9. R. Gopinath
10. V. Kumaran
11. T.C. Gnanasekar
12. A.S. Zameer Basha
13. K. Murali
14. S. Sridhar

15. The Central Administrative
    Tribunal, Madras Bench rep.
    by its Registrar
    Chennai 600 104. .. Respondents

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Petition filed under Article 226 of the Constitution of India praying for an issuance of a writ of certiorari as stated therein.

For petitioners : Mr. V. Radhakrishnan
For respondents : Mr. R. Ganesan for R.1 to R.14

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ORDER

(ORDER of the Court was made by P.SATHASIVAM,J.)

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Aggrieved by the order of the Central Administrative Tribunal, Madras Bench dated 23.8.2001 made in O.A.No.522 of 2000, the Railway Administration (Integral Coach Factory - in short, ICF) has filed the above writ petition.

2. Heard Mr.V.Radhakrishnan, learned counsel appearing for the petitioners and Mr.R.Ganesan, learned counsel appearing for the respondents 1 to 14.

3. The respondents 1 to 14 herein/applicants before the Tribunal, who are unskilled Khalasi Helpers, on the apprehension that they would be retrenched at any time, approached the Tribunal for necessary direction to frame a scheme and to fill up the posts in Civil Engineering Department of ICF after conducting a General Departmental Examination and also to accommodate them in suitable appropriate Group-C posts.

4. Before the Tribunal, the respondents/applicants relied on the order of the Tribunal dated 15.12.1993 made in O.A.Nos.1198 to 1200 of 1991, etc. batch filed by Technical Mates in the Southern Railway seeking regularization of their services in Group-C posts, instead of being absorbed in Group-D posts, wherein the Tribunal issued directions to the respondents therein to prepare a scheme to fill up 25% quota of skilled category in Group-C posts and also to consider the case of applicants therein. It is the claim of the respondents/applicants herein that their case is also similar. It is also their grievance that even though there are number of vacancies in Group-C posts, the applicants have not been considered in spite of their requisite qualifications since they had been absorbed in Group-D posts.

5. The Railway Administration filed a counter before the Tribunal stating that all 14 applicants, who possess Diploma in Civil Engineering, were engaged as Casual Labour Technical Assistants in Civil Engineering Department during 1987-89 and on completion of 120 days of continuous service without break, they were given temporary status with a time scale of pay. When the question of regular absorption comes, they are normally absorbed only in Group-D posts. On their absorption in Group-D posts, they should seek progression in the

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normal avenue. The normal avenue of progression for Khalasis is the promotion to the next higher grade, namely, Khalasi Helper in the scale of pay, Rs.800-1150/-. The applicants can seek progression to Group-C as Technician, Grade-III in different trades by responding to notifications issued from time to time. None of the applicants is entitled to get absorbed in Group-C posts.

6. The Tribunal, before considering the claim of the applicants, verified the order passed by it in O.A.Nos.1198 to 1200 of 1991, etc. batch dated 15.12.1993. Those applications were filed by Technical Mates (Casual Labour). The grievance of those persons was that even though they were qualified to be absorbed in Group-C posts, they were absorbed only in Group-D posts. On the proposal of General Manager of Railway Board and on the orders of the Tribunal, the applicants therein were absorbed in Group-C posts after framing a scheme. Precisely, the applicants in this case seek a similar relief as they should be treated in the same way after framing a scheme.

7. Learned counsel for the writ petitioners, Railway Administration submitted that the said decision is not applicable to the applicants in the present case. However, it is relevant to note that the very same objection was projected before the Tribunal by the Railway Administration and after verifying the pleadings, the Tribunal concluded that the chance of promotion in so far as applicants are concerned is limited and some scheme or formula has to be formulated to satisfy their requirements. It is relevant to refer to the statement made in the additional counter that as a special case, all the applicants are being considered as Junior Engineer Grade-II after holding a Limited Departmental Competitive Examination. Learned counsel for the respondents/applicants has brought to our notice that the General Manager, Southern Railway himself has addressed to the Secretary, Railway Board on 3.4.1997, sanctioning of such scheme to ventilate the grievance of the applicants. As rightly stated by the Tribunal, the said letter of the General Manager, Southern Railway shows that most of casual labours including the applicants are highly qualified and their services and experience could be utilized by appointing them as Junior Engineer Grade-II. It is true that the Railway Board has not sent any reply. However, the Tribunal taking note of the earlier order passed in respect of similarly placed persons working in the Southern Railway, considering the letter of the General Manager addressed to the Railway Board and of the fact that the applicants/casual labours are highly qualified and the avenue of promotion is very limited, issued a direction to the Railway Administration to prepare a scheme as directed in the earlier order made in batch of cases, cited supra and thereafter consider the case of applicants on the basis of their qualifications by conducting a General Departmental Competitive Examination to Group-C Posts. In the light of the factual position and earlier order of the Tribunal which was implemented by the Railway Administration, considering the limited

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avenue of promotion and the qualifications of the applicants, we are satisfied that the Tribunal is fully justified in issuing the direction. It is to be noted that there is no positive direction issued to absorb the applicants without evolving any formula. As directed by the Tribunal, the Railway Administration has to prepare a scheme considering the length of service and qualifications of the applicants and thereafter consider their case on the basis of their performance by conducting a General Departmental Competitive Examination. We are satisfied that the Tribunal, by the impugned direction, has not only granted the relief to the applicants, but also safeguarded the interest of the Railway Administration and we do not find any valid ground for interference. On the other hand, we are in agreement with the conclusion arrived at by the Tribunal.

In the result, the writ petition fails and the same is dismissed. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Registrar
Central Administrative
Tribunal, Madras Bench
Chennai 600 104.

2. The Secretary to Govt.,
Union of India,
Ministry of Railways,
New Delhi.

3. The General Manager
Integral Coach Factory
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4. The Member Secretary
   Railway Recruitment Board
   Ganga Building, Chennai 34.

+1cc to Mr.V.Radha Krishnan, Standing Counsel for Railway SR 28098

PV (CO)
km/11.7

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